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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

SZYMANSKI, THOMAS M

ART UNIT PAPER NUMBER

2134

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/047,250	VERMA, RAVI	
	Examiner	Art Unit	
	Thomas Szymanski	2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1- 5 and 8-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Olsen U.S. Patent No. 5,758,069.

3. Regarding claim 1: License enforcement server connected to the network (Fig 1 104, Col 3 lines 42-53)

A database (Fig 1 112, Col 3 lines 54-55).

A client connected to the network (Fig 1 106, Col 3 lines 54-60)

An instruction set for receiving and sending messages related to the licensed activity (Col 3 lines 54-67 Col 4 lines 1-30, Col 6 lines 2-19, Fig 3) Olsen provides an instruction set that allows the client to communicate with the licensing server through a messaging system and the server utilizes the given instructions to formulate license information to provide back to the client.

A license enforcement gateway couple to the license enforcement server (Col 2 lines 44-59, Col 7 lines 50-67) A gateway is provided for access of one license

enforcement server to another for when a license is not available on the given server. Thus providing an interconnection via this gateway to allow communication between servers and issuance of a license.

A namespace tree for identifying licensed activity (Fig 4, Col 3 line 41 – Col 4 line 67, Col 5 lines 11-20) Olsen states that the system set forth is suitably comprised of any database that can store licensing information. Therefore, the system of Olsen provides for a namespace tree as means for identifying licensed activity. Furthermore, as indicated within the art the system is set up in a distributed manner as shown in figure 4 this tree structure provides for a namespace tree when combined as in the system of Olsen.

4. Regarding claims 2-3: The server being of a combined system with a primary domain controller and address server (Col 3 lines 49-53, 59-63, Col 7 lines 4-24, Fig 5 506) The system as described being resident on a PDC and address server is provided for within the system of Olsen by the implementation of Novell Netware on the server that is acting as a license server. Novell provides for domain control per the user system provided as well as the directory services that provide for addresses of all members.

5. Regarding claim 4: A second license enforcement server (Col 3 lines 50-53) Olsen provides for a multiple server environment as would be common place amongst any such network configuration.

6. Regarding claim 5: License enforcement server is integrated with the operating system. (Col 3 lines 59-61) Within Olsen's implementation the license enforcement server is integrated into Novell as a module. Since Novell is an

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integrated part of the operating system of the server this would then extend to those parts of Novell such as the provided licensing system.

7. Claims 8-12, 13-15, 16-18, 19-21, and 22-26 are a recitation of claims 1-5 and as such are rejected on the same basis.

8. Regarding Claim 27: The namespace tree is organized utilizing data associated with at least one of vendors, categories of software, products, versions of the products, and licensing modeled data with the products. (Col 3 lines 54-60, Col 4 lines 23-61, Fig 4, Col 7 Lines 13-15) The database (i.e. namespace tree) is always organized by such information as that described. Furthermore, it can be seen as to the distributed nature of the database that the tree structure of figure 4 provides for a networked tree of databases that are organized in the same manner as mentioned by the applicant.

9. Regarding Claim 28: The license enforcement server serves licenses associated with software from a plurality of vendors (Col 1 lines 9-20, Col 2 lines 30-55, Col 4 lines 47-52) As it may be seen the invention teaches that any number of vendors may be use the network of servers for licensing.

10. Regarding Claim 29: The licensed activity is prevented if the state of authorization includes an unauthorized state (Col 1 lines 40-56) As stated for the application to run it must be authorized.

11. Regarding Claim 30: An alarm is created if the state of authorization includes an unauthorized state (Col 1 lines 54-57) an indication of the activity is logged, as such providing an alarm.

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12. Regarding Claim 31: The license enforcement server communicates with the license enforcement gateway information associated with at least one of a list of licenses, data regarding use of a particular license, requests for receiving new licenses, requests for receiving updates to existing licenses, alarms associated with piracy, and alarms associated with a disabling of a license. (Col 1 lines 54-57, Col 3 line 41 – Col 4 line 67)

13. Regarding Claim 32: The license enforcement server periodically confirms the validity of at least of a date, a number of launches, and a number of logged hours

The license enforcement server authorizes licenses without communicating with the license enforcement gateway between the periodic confirmations (Col 3 line 41 – Col 4 line 67) As taught the enforcement server does not communicate with the gateway unless the license is not located on that particular node.

Response to Argument

14. Applicant's arguments filed 4 August 2005 have been fully considered but they are not persuasive.

15. With regard to the applicant's argument that "receiving a message indicating a state of authorization associated with the licensed activity" does not apply to the applicant's case, the examiner directs the applicant's attention to (Col 3 line 41 – Col 4 line 67) as a general explanation of how the system works. The receipt of such a message or indication within any system is necessary for

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the activity to progress merely terming the authorization as a message does not make the process independent from that which is claimed.

16. The applicant has asserted that the specificity of a namespace tree is not suggested by Olsen's use of a database. The examiner asserts that within the system of Olsen not just the singular database of one server comprises the licensing system but the entire network as illustrated within figure 4 of the tree structure of one database to the next. Additionally, a database as defined by Dictionary.com® is "an organized body of related information", the organization is systematic and each entry must be uniquely defined. Thus, it follows per the Microsoft® computer dictionary definition of a namespace, "a grouping of one or more names that represent individual objects within the group in a shared networking environment" that the structure defined by Olsen anticipates a namespace tree for the storage of a license as denoted by the applicant. The applicant has asserted that the teaching of a root by Olsen lends the reference to teach away from the applicant's claimed invention. Such an argument as teaching away from the subject matter does not apply within the case of a 102 rejection, only within a combined reference rejection of a 103. The use of the term root within the Olsen reference is used to show the manner by which the tree structure is searched and not to describe the structure of the actual system itself.

17. The applicant has further asserted that the gateway as taught by Olsen is deficient from that of the applicant's invention. However, the examiner asserts that as implemented within Olsen a license enforcement gateway is the exact

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same thing. The definition of a gateway as provided by the stated by Dictionary.com® is "something that serves as a means of access", it can be clearly seen that this is the case and that with further cognizance the gateway as taught does synchronize and validate with such databases for the purposes of (Col 4 lines 23-67, Col 7 line 50 – Col 8 line 29) the networked database system. The databases must communicate and synchronize with the other systems the number of licenses currently in use otherwise the total number allowed would be violated.

18. With regard to the applicant's argument that the presence of an address server or PDC within the same system as the license enforcement server does not constitute a network critical machine, the examiner respectfully disagrees. The network critical machine is simply the novell netware server (Col 7 lines 4-24). The presence of this system together on the same computer is critical as taught and further per the implementation itself. The assertion of the applicant that the two systems being resident on the same machine does not constitute such a relation is not the case as taught by the Olsen reference. As it is understood when a computer is a PDC and an address server any other functions of that same machine are also part thereof and thus constitute that system being a network critical machine as defined.

Conclusion


19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.**

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See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

JV



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